

JOHN R. CLIMACO
CLIMACO, WILCOX,
PECA & GAROFOLI CO., L.P.A.

55 Public Square, Suite 1950
Cleveland, Ohio 44113
Telephone: (216) 621-8484
Facsimile: (216) 771-1632
Email: jrcлим@climacolaw.com

John R. Climaco, a 1967 graduate of Case Western Reserve University Law School, began his career as a sole practitioner which eventually evolved into a 65-member law firm with offices in Cleveland and Columbus, Ohio, Washington, D.C. and Louisiana. Climaco, Wilcox, Peca & Garofoli Co., L.P.A., currently a 9-member law firm.

John is licensed to practice in the State of Ohio, as well as United States District Courts for the Northern and Southern Districts of Ohio; Eastern and Western District of Louisiana; Eastern District of New York; Central District of California; Eastern District of Michigan; Eastern District of Texas; Southern District of Illinois; U.S. Courts of Appeals, Second and Sixth Circuits; U.S. Tax Court; U.S. Supreme Court.

Martindale Hubbell's highest rating, AV-pre-eminent, for legal ability and ethical standards.

National Law Journal named John one of the 100 most powerful lawyers in the United States.

Ohio Super Lawyer 2000 to present.

The National Trial Lawyers named John one of the Round Table 100 Most Influential Trial Lawyers in the country.

John devotes his comprehensive practice to General and Complex Litigation, including Class Actions, Securities ERISA, Mass Torts, Environmental, Toxic Tort, White Collar, Criminal Civil RICO, Labor Unions and Public Law matters.

Throughout his career, John has provided individuals, labor unions, private corporations and government excellent, diligent, efficient counsel including:

- The State of Ohio; City of Cleveland; Cleveland Board of Education
- Special Counsel, Ohio Attorney General's Office
- Special Counsel, Kent State University
- Special Counsel, Cuyahoga County, Ohio Prosecutor's Office

* * *

- General Counsel, International Brotherhood of Teamsters, 1984 to July 1988
- Sammy Davis, Jr., 1974 until his untimely death in May, 1990.
- Police Officers. Assisted in organizing, drafted the Constitution and By-Laws and served as Counsel to the Cleveland Police Patrolmen's Association (CPPA) and the Ohio Patrolmen's Benevolent Association (OPBA) comprised of 6000 police officers throughout the State of Ohio for over forty (40) years. Currently serves as Civil Counsel to the Cleveland Fraternal Order of Police, Lodge No. 8.

In 1976, Congress revised the U. S. Bankruptcy Code and created the position of Bankruptcy Examiner. In September 1980, Federal Bankruptcy Judge, Mark Schlachet, appointed John the Examiner in the White Motors Chapter 11 Bankruptcy proceedings, which at that time was the largest industrial Chapter 11 Bankruptcy case ever filed under the recently enacted Bankruptcy Code. John's appointment as Examiner was the first appointment of an Examiner following creation of the position.

U.S. Bankruptcy Judge O'Neil complimented John's role as Examiner:

"The Examiner's performance was broad in scope, highly productive and most beneficial to results achieved. The Examiner brought to the case a representation of those interests that, in my judgment, would not have existed without that role and a representation that was critical to maintain that balance. Obviously, I believe that the Examiner made significant and substantial contributions to the White Motor reorganization." [*Testimony of Wallace B. Askins, Chairman of White Motors*] The Court concurs and lauds the Examiner's effort which conferred considerable benefit to the estates. He provided an independent, investigative role at the Court's request. Duties commendably performed included valued analyses and decisions on vital issues which proved significantly beneficial."

Beginning in the mid-1970's, John represented International Brotherhood of Teamsters ("IBT") General President, Jackie Presser, in union-related as well as personal white collar criminal matters.

He served as General Counsel of the IBT from 1984 until 1988 while still developing his Cleveland, Columbus and Washington, D.C. private practice.

As General Counsel to the IBT, among other significant matters, John:

- Negotiated the re-affiliation of the IBT with the AFL-CIO.
- Developed a truce with Cesar Chavez, co-founder of the United Farm Workers, and the IBT over migrant farm workers in California.

- Represented the IBT and its elected officials before Congressional Committees, in particular the U.S. Senate's Labor, Judiciary and Permanent Subcommittee on Investigations.
- Represented the IBT and its elected officials before the President's Commission on Organized Crime.
- Represented the IBT in the early stages of the Civil Rico government takeover action and was counsel in the IBT's only victory.
- Developed and successfully litigated the first Civil Rico case filed by a Labor Union against an employer -- Central Transport.
- Represented the Central Conference of Teamsters Pension and Health and Welfare Fund.

John served as General Counsel to a newly chartered statewide Ohio Teamster Public Employee Union. As a result, at the personal request of then Ohio Governor John G. Gilligan, he quelled a statewide "wildcat strike" by an Ohio Prison Guards' Union, which led to the enactment of Ohio's Public Employment Collective Bargaining Laws.

SIGNIFICANT PRECEDENT DECISIONS

Herm, et al. v. Stafford, et al., 461 F. Supp. 515 (1978), 601 F.2d 588 (6th Cir. 1979) established two year statute of limitations in S.E.C. Rule 10b-5 security fraud litigation.

Represented the Ohio Conference of Teamsters Pension and Health and Welfare Fund.

Dennis J. Kucinich, et al. v. Mercedes Cotner, et al., 1978 WL219367 (Ohio App. 8th Dist.) Cleveland City Charter reserves to the electors of the City the power to remove from office the Mayor and Members of Council.

Inland Refuse Transfer Co., et al. v. Browning-Ferris Industries of Ohio, Inc., et al., 15 Ohio St.3d 321 (1984) parole evidence is admissible in a contract dispute where the contract is not clear and unambiguous.

William E. Brock, Secretary of Labor v. Loran W. Robbins, et al., 830 F.2d 640 (7th Cir. 1987).

Albrecht v. Treon, 118 Ohio St. 3d 348 (2008). John served as Special Counsel to the Cuyahoga County, Ohio Prosecutor's Office in a putative plaintiff and defendant class action suit filed in the United States District Court for the Southern District of Ohio against 87 Ohio county coroners and/or medical examiners in the state of Ohio who had removed, retained and disposed of body parts (brain) without prior notice to the next of kin. This was a long-standing practice involving thousands of potential claims and \$100 Million dollars in

damages. During meetings with attorney representatives of Ohio's 87 counties, John advocated an aggressive litigation strategy including seeking certification of a question of state law to the Ohio Supreme Court. While other attorneys objected, John's certified question of state law strategy was pursued. John's strategy prevailed and the Ohio Supreme Court established the precedent that the next of kin of a decedent upon whom an autopsy had been performed do not have a protected right under Ohio law to the decedent's tissues, organs, blood, or other body parts that have been removed and retained for forensic examination and testing. Based on the Ohio Supreme Court's answer to the certified question of state law John proposed; the United States District Court for the Southern District of Ohio dismissed Plaintiffs' putative class action lawsuit saving eighty-seven Ohio counties hundreds of millions of dollars in potential damages. *Albrecht v. Treon, et al.*, 889 N.E. 2d 120.

BILLION/MILLION DOLLAR SETTLEMENTS AND JURY VERDICTS

\$246 Billion Dollar Class Action Settlement Against the Tobacco Industry

From 1994 to date, John has been a member of the Castano Plaintiff's Legal Committee serving as acting Chairman of the PLC and Co-Chairman of various committees, including the Discovery, Trial and Fee Committees. In 1994, the Castano class action was the first class action filed against the tobacco industry alleging the nicotine addiction theory.

Castano, along with Mississippi, Texas and Florida are recognized as Tobacco Pioneers. The Pioneers' efforts resulted in the historic \$246 Billion settlement with the tobacco industry.

In 2000, CWPT&G and the other 50 Castano law firms received the "Breath of Life Award" from the American Lung Association for their work.

March 22, 1992, John was appointed by Thomas J. Lambros, former Chief Judge of the United States District Court, Northern District of Ohio as a member of the Plaintiffs' Steering Committee and Lead Trial Counsel in a case against USAir arising out of the crash of Flight 405 at LaGuardia Airport in March, 1992, *In Re: Air Disaster at New York LaGuardia Airport on March 22, 1992*, MDL Docket No. 936 (Multi-Million Dollar Individual Plaintiff verdicts).

1999 Class Counsel in *Brack, et al. vs. General Motors Corporation*, Case No. CV 98 04046, Superior Court of New Mexico, County of Bernalillo (National Product Liability Multi-Million Dollar Settlement).

February 1, 2001, Member of the Plaintiffs' Steering Committee and Co-Chairman of the Discovery and Trial Committees *In Re: Baycol Litigation Products*, MDL 1431, U.S. District Court of Minnesota. (\$1.3 Billion in Settlements).

July 6, 2001, The Honorable Judge Kathleen O'Malley appointed John as Co-Lead and Class Counsel in *In Re: Inter-Op Hip Prosthesis Liability Litigation*, MDL No. 1401, U.S. District Court, Northern District of Ohio, Eastern Division (\$3.2 Billion Settlement).

March 28, 2003, The Honorable Judge Donald C. Nugent appointed John as Co-Lead Counsel in *re: OM Group Securities Litigation*, Case No. 02CV-2163, U.S. District Court, Northern District of Ohio, Eastern Division (\$92.4 Million Settlement)

September 16, 2003 – The Honorable Kathleen M. O'Malley appointed John nationwide Liaison Counsel in *In Re: Welding Rod Products Liability Litigation*, MDL No. 1535, U.S. District Court, Northern District of Ohio, Eastern Division. John also serves on the Class Action Certification, Discovery & Trial Committees. (June 1, 2012 – Confidential Settlement).

2006, appointed Co-Lead Counsel in the matter *Opperman, et al. v. Cellco Partnership d/b/a Verizon Wireless*, Case No. BC 326764, Superior Court of the State of California for the County of Los Angeles which was a matter alleging consumer fraud claims on behalf of a national class. The Court approved a national class action settlement on behalf of consumers who activated Verizon wireless cellular service for a Motorola V710 telephone on or before January 31, 2005.

December 5, 2007 - \$20.5 Million Dollar Jury Verdict, John was Lead Trial Counsel in *Tamraz v. Lincoln Elec. Co.*, United States District Court, Northern District of Ohio, Eastern Division Case No. 1:04-CV-18948, *In re: Welding Fume Products Liability Litigation*, Case No. 1:03-CV-17000 (MDL Docket No. 1535). The largest of only five Welding Fume Plaintiff verdicts. Reversed on Appeal. (June 1, 2012 Confidential Global Settlement).

September 3, 2008 (\$37.5 Million global settlement) Ohio Attorney General Marc Dann appointed John Co-counsel with Bernstein Litowitz Berger & Grossmann LLP for the Lead Plaintiff the State Teachers Retirement System of Ohio in the matter *In re Scottish Re Group Securities Litigation*, U.S.D.C. S.D. NY, Case No. 06-cv-5853 SAS. (\$37.5 Million Settlement)

January 27, 2010 Dannon Activia - \$45 Million national class settlement including injunctive relief removing “scientifically proven” “clinically proven” and “immunity” language from all packaging, labeling and advertising. John was **Co-Lead Counsel and one of five Class Counsel. *Gemelas v. The Dannon Co., Inc., et al.***, U.S.D.C. N.D. Ohio, Case No. 1:08-cv-236 alleging violations of the consumer protection laws on behalf of a national class of consumers arising from Dannon’s contention that its DanActive yogurt is “scientifically and clinically proven” to aid digestion.

July, 2010 Fleet Oral Sodium Phosphate \$100+ Million Dollar Mass Tort (443 cases) Confidential Settlement, John was appointed National Liaison Counsel by The

Honorable Ann Aldrich and subsequently by the Honorable Dan Aaron Polster, ***In re: Oral Sodium Phosphate Solution-Based Products Liability Action***, Case No. 1:09-sp-80000, (MDL Docket No. 2066), United States District Court, Northern District Of Ohio, Eastern Division.

August 3, 2011 - *Cathy Pfaff, et al. v. Whole Foods Market Group, Inc., et al.*, United States District Court for the Northern District of Ohio, Eastern Division, Case No. 1:10CV02954. **Lead Class Counsel**. Settlement included monetary, equitable relief and *cy pres*.

December 28, 2011 - *Robert Schmidt, et al. v. AT&T*, Cuyahoga County Court of Common Pleas, Case No. CV-09-688788, \$258,477,200.00 Claims Made Settlement including *cy pres* relating to AT&T's DSL speed.

March, 2013 - *In Re: Imprelis Herbicide Marketing, Sales Practices And Products Liability Litigation*, MDL No. 2284 before the Honorable Judge Gene E.K. Pratter, United States District Court Eastern District of Pennsylvania. Case Settled.

March, 2013 - *Donald Eliason, et al. v. Gentek Building Products, Inc., Associated Materials, LLC, et al.*, Case No.: 1:10CV2093 PAG, before the Honorable Judge Benita Y. Pearson, United States District Court for the Northern District of Ohio. \$3 Million Settlement and warranty enhancement

March, 2013 – *School Employees Retirement System of Ohio v. Wachovia Bank, N.A., et al.*, Case No. 2:10-cv-1160 before the Honorable Algenon L. Marbley, United States District Court for the Southern District of Ohio. \$6 Million Settlement.

In Re: Scottish Re Group Securities Litigation, Master File No. 06-CV-05853 before the Honorable Shira A. Scheindlin, United States District Court for the Southern District of New York, \$37.5 Million Settlement

John was Co-Lead and Liaison Counsel in the matter ***In Re: Inphonic, Inc. Wireless Phone Rebate Litigation***, MDL Docket No. 1792 (D.D.C.), District of Columbia, Case No. 06-528. Following Inphonic filing for bankruptcy, a settlement was negotiated.

ADDITIONAL PENDING OR SETTLED CLASS ACTIONS AND MASS TORTS

The Honorable Donald C. Nugent appointed John Co-Lead and Liaison Counsel *In Re: Kaba Simplex Locks Marketing and Sales Practices Litigation*, MDL No. 2220, United States District Court, Northern District of Ohio, Eastern Division. This case has been settled.

January 9, 2012 – The Honorable Ed Kinkeade, USDC for the Northern District of Texas appointed John one of the members of Plaintiff's Steering Committee. *In Re: DePuy Orthopaedics, Inc., Pinnacle Hip Implant Liability Litigation*, MDL No. 2244. This case has been settled.

In Re: Julie Fitzpatrick, et al. v. General Mills, Inc., et al., United States District Court Southern District of Florida, Case No. 09-Civ-60412, consumer fraud involving false advertising of Yoplait Yogurt. This case has been settled.

Melissa Brock, et al. v. General Mills, Inc., et al., United States District Court Northern District of Ohio, Case No. 1:10CV00060, consumer fraud involving false advertising for Yoplait Yogurt. This case has been settled.

In Re: Navistar Diesel Engine Products Liability Litigation, MDL 2223, United States District Court for the Northern District of Illinois, Eastern Division. Member - Plaintiffs' Steering Committee. Case Settled.

In Re: Dial Complete Marketing and Sales Practices Litigation, USDC for the District of New Hampshire, MDL 2263 before the Honorable Judge Steven J. McAuliffe, Member - Executive Subcommittee.

In Re: ACTOS (Pioglitazone) Products Liability Litigation, MDL No. 2299; Judge Rebecca Doherty, United States District Court, Western District of Louisiana.

In Re: Colgate-Palmolive Softsoap Antibacterial Hand Soap Marketing and Sales Practices Litigation, MDL No. 2320, Before the Honorable Judge Paul J. Barbadoro, United States District Court, District of New Hampshire. This case has been settled.

In re: MI Windows and Doors, Inc. Products Liability Litigation, MDL No. 2333, before the Honorable Judge David C. Norton, United States District Court for the District of South Carolina. This case has been settled.

In Re: Emerson Electric Co. Wet/Dry Vac Marketing and Sales Practices Litigation, MDL No. 2382, before the Honorable Judge Henry E. Autrey in the United States District Court Eastern District Of Missouri. This case has been settled.

In Re: Shop-Vac Marketing and Sales Practices Litigation, MDL 2380, before the Honorable Chief Judge Yvette Kane in the United States District Court Middle District of Pennsylvania.

In Re: 5-Hour Energy Marketing and Sales Practices Litigation, MDL No. 2438, Case No. 2:13-mj-02438-PSG-PLA, Central District of California (Western Division – Los Angeles) – Member of the Steering Committee.

In Re: Remington Arms Company, LLC, et al., Case No. 4:13-0086-CV-W-ODS, United States District Court for the Western District of Missouri, Western Division. This case is ongoing.

On July 23, 2014, the Honorable Judge Daniel Polster, United States District Court, Northern District of Ohio appointed John liaison counsel in the ***Department of the Treasury, State of New Jersey v. Cliffs Natural Resources, Case No. 14-CV-1031-DAD***. This case settled for \$84 million.

CONTINUING LEGAL EDUCATION

John has lectured extensively on trial preparation and practice, RICO, ERISA, Mass Torts, Class Actions, MDL Proceedings, white collar criminal defense, labor and employment law throughout the country including the Stetson University College of Law's Annual Conference; New York City Bar Association; Aspen, Colorado Advanced Criminal Law Institute; Case Western Reserve College of Law-CLE Program; Health Care Section Conference of the Cleveland Bar Association; the Columbus Bar Association's Annual Litigation Institute; Institute of Business Law of California State University, Los Angeles and the Ohio CLE Institute. In January and May 2001, he was a panel member at the Mealey's Baycol Seminar in San Diego, California. On October 24, 2003 John was a Keynote Speaker at the Fourth Annual Class Action/Mass Tort Symposium in New Orleans sponsored by the Louisiana State Bar Association. On November 16, 2004, he was a panel member at the American Conference Institute's Welding Rod Litigation Conference in New Orleans. On March 24, 2010 and May 12, 2010, John was a Keynote Speaker at the HarrisMartin Toyota Recall Litigation Conferences on The Tread Act: Criminal Liability for "Lying" to NHTSA About Safety-Related Defects. On December 10, 2010 John spoke on Civil RICO at the 10th Annual Louisiana Mass Torts Symposium. On January 14, 2011 John spoke on Manufacturers Civil RICO Liability at the HarrisMartin Darvon and Darvocet Recall Litigation Conference. On January 25, 2012 John spoke on Civil RICO Liability at the Harris Martin Transvaginal Mesh and ACTOS Litigation Conference. In 2013, John spoke at the Annual Class Action/Complex Litigation Symposium.

John has appeared numerous times on local and national radio and television, including *Good Morning America*, *The Today Show*, *Larry King Live*, *Night Line*, *The Greta Van Susteren Show*, *The Phil Donahue Show*, and is regularly quoted in local and national newspapers discussing various legal issues.

MEMBERSHIPS AND HONORARIUMS

Life Member - Judicial Conference of the United States Court of Appeals for the Sixth Circuit. Charter and Life Member - Judicial Conference of the Eighth Judicial District of Ohio. United States District Court Judge Donald C. Nugent appointed John as a Member of the Advisory Group to the United States District Court for the Northern District of Ohio. In 2009, Steven Dettlebach, United States Attorney for the Northern District of Ohio, appointed John to the U. S. Attorney Advisory Committee.

On May 6, 2000 John received the **Ellis Island Medal of Honor**.

Life Member - Justinian Forum, a professional organization for attorneys and judges of Italian heritage in Northern Ohio and also the Northern Ohio Italian-American Association ("NOIA").

In 1992 and 1997, the Center for Mental Retardation selected John to receive the Service to the Center Award. In 2003 he received an award for outstanding commitment to individuals with MR/DD. In 2006 he received the Above and Beyond Award from North Coast Community Homes. He currently serves as a member of the Board of Directors of Our Lady of the Wayside.

In 2008, Our Lady of the Wayside honored John with the Starlight Guardian Humanitarian Award – celebrating those who embrace the spirit of giving.

PERSONAL

John is married to Carolyn. John and Carolyn have two children, John and Nicole and two grandchildren, 13 year old John Nicholas and 7 year old Athena Conlyn. John M. is an attorney. John's daughter, Nicole is 42. Nicole is intellectually challenged, lives independently in a home John and Carolyn built for her and three other challenged adults and works four (4) days per week in John's office.